



*Certain exhibits contain TSCA Confidential Business Information;
Barr is submitting a redacted and a complete set of its exhibits to the Agency*

May 19, 2017

The Honorable Scott Pruitt
Administrator
U. S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Re: Comments in Response to Proposed TSCA Section 6(a) Regulation
Methylene Chloride (MeCl₂) and n-Methylpyrrolidone (NMP) in Paint Removers
EPA Docket Number: EPA-HQ-OPPT-2016-0231

Dear Administrator Pruitt:

W. M. Barr & Company, Inc. ("Barr")¹ submits the enclosed comments and exhibits in response to the U.S. Environmental Protection Agency's ("EPA" or "Agency") notice of proposed rulemaking ("NPRM"), published pursuant to Section 6(a) of the Toxic Substances Control Act ("TSCA" or "Act"), prohibiting the manufacture, processing, and distribution of retail-size, consumer and residential-use paint and coating removers that contain methylene chloride ("MeCl₂") and n-Methylpyrrolidone ("NMP"). As a leader and innovator in the retail paint stripper formulating sector, Barr has focused its comments on those portions of EPA's proposal that will effectively ban the Company's most cost-effective and consumer-preferred paint stripper products. The basis for the Agency's action is the proposed finding that these two substances present an unreasonable risk to consumer and residential users under certain conditions of use. On the basis of the information Barr is providing, we urge the Agency to reconsider and withdraw this unnecessary proposed rule, and the erroneous finding of unreasonable risk to consumers upon which it relies.

As discussed in Barr's comments, and the enclosed technical assessments completed by multiple experts in their respective fields, the NPRM turns the policies underlying the recent amendments to TSCA law on their head. The NPRM does not reflect the best available science, and does not objectively consider the technical and economic

¹ Barr is an employee-owned enterprise with a lengthy history of providing the highest quality, most effective consumer and professional use paint removal products. Barr is committed to providing paint removal products that can be safely used without unreasonable risk to health or the environment. Barr brand products are carried in Home Depot, Lowe's, Ace, Walmart, Menards, Orchard and other home and hardware retail distribution centers. Commercial, small-business contractors who buy Barr products generally purchase them at Home Depot or Lowe's, which sell to many such contractors for one-time only projects and for small jobs and periodic, short duration uses. Other users who purchase through these retail channels include individual consumers who might be homeowners and other do-it-yourself (DIY) users.

W.M. Barr & Company, Inc.
6750 Lenox Center Court, Suite 200, Memphis, TN 38115
www.wmbarr.com



*Certain exhibits contain TSCA Confidential Business Information;
Barr is submitting a redacted and a complete set of its exhibits to the Agency*

feasibility of alternative paint and coating removal methods (and the risks of those technologies). Moreover, the NPRM does not reflect the balanced regulatory approach that Congress judiciously included in its recent amendments to TSCA that require EPA to impose only those restrictions necessary to reduce to reasonable levels the risks EPA alleges to be presented to consumers and residential users of coating removers.

Unfortunately, in issuing this overly burdensome and restrictive NPRM, EPA has failed to meet the legal obligations Congress imposed on the Agency through the recent amendments to Sections 6, 9, and 26 of the amended law. Further, the NPRM reflects EPA's failures to address the Office of Management and Budget's ("OMB") guidelines concerning scientific integrity and data quality; to overcome the many deficiencies in its scientific methods as highlighted in recent reports issued by the National Academies of Sciences; and to adhere to OMB and EPA's own guidelines intended to ensure that the Agency rationally and reasonably assesses the economic impacts of proposed regulations and their effect on small businesses, such as Barr. Consequently, EPA has ignored obvious, and less burdensome, regulatory alternatives that could more swiftly address the principal concerns that prompted EPA's proposed rulemaking -- namely, an enhanced industry-wide labeling regime that Barr and others in the paint removal products community are introducing to prohibit use of retail-size, consumer use paint removal products in bathtub refinishing.

The legal and procedural requirements Congress imposed through the amendments to TSCA are important; the Agency's failure to seriously address them undermines the credibility and technical foundation of EPA's proposal. The unintended safety and health consequences that could flow from EPA's proposal should be of great concern to the Agency, as they most certainly are to the members of American public who buy retail-size paint and coating removers. The unintended consequence of the Agency's proposed prohibition on consumer use MeCl₂ and NMP coating removers will be to compel Barr's ultimate customers, who are consumers and small business residential users of paint removal products, to rely on inferior alternatives that will lead to increased human exposures to the hazardous substances they contain for longer intervals. Ironically, the proposed restrictions on the most effective retail consumer use products will inevitably increase the risks of loss of life and property damage to the purchasers of retail paint stripper products. Simultaneously, the proposal would also force small business manufacturers like Barr to reformulate our product lines in a manner that could detrimentally impact our employee-owners' jobs, overall revenues, and our retirement security without any commensurate increase in public health or environmental benefits.

These are real-world, detrimental consequences that the Agency understood well before publishing the NPRM. Indeed, EPA elected to propose this rule despite Barr's

W.M. Barr & Company, Inc.

6750 Lenox Center Court, Suite 200, Memphis, TN 38115

www.wmbarr.com



*Certain exhibits contain TSCA Confidential Business Information;
Barr is submitting a redacted and a complete set of its exhibits to the Agency*

repeated efforts to reasonably and demonstrably address the Agency's concerns for consumer use exposures, both formally, as a small business representative that submitted oral and written information responsive to these issues during the Small Business Regulatory Enforcement Fairness Act ("SBREFA") process, and informally in meetings with Agency and OMB officials during the past three years. Frustratingly, the NPRM suggests that EPA ignored Barr's efforts, despite our significant investment in time and resources, and notwithstanding Congressional entreaties imploring the Agency to move in a more reasonable direction.²

For these reasons, and on the basis of the information and data provided in the enclosed comments and expert reports, Barr encourages EPA to reconsider the proposed rule in light of the overwhelming legal, scientific, and economic analyses we are presenting and to promptly withdraw the NPRM.³ We further encourage EPA to work with the regulated community,⁴ and in collaboration with the CPSC and Small Business Administration's Office of Advocacy, to support the rapid implementation of an industry-wide labeling standard that is specifically tailored and pertinent to retail-size consumer use paint strippers, and which can be enhanced to more swiftly and economically address EPA concerns for potential exposures to consumer use MeCl₂ and NMP paint strippers.

Barr supports a collaboration by EPA with CPSC to build on CPSC's current standard and specifically establish enhanced labeling standards that would: (1) require the use of MeCl₂-containing products only in well-ventilated spaces and prohibit the use of products containing MeCl₂ in confined spaces such as bathrooms; (2) prohibit consumer and residential contractor uses of products containing MeCl₂ for stripping bathtubs; and (3) require the use of dermal protection for NMP-containing paint strippers. Such a standard could include reasonable requirements for the use of pictograms and multilingual text and

² 162 Cong. Rec. H3028 (May 24, 2016); Letter from Rep. Marsha Blackburn (TN-7), Rep. Robert Pittenger (NC-9) & Rep. Richard Hudson (NC- 08) to Gina McCarthy, Administrator, U.S. Environmental Protection Agency (Nov. 30, 2016).

³ Barr has enclosed with its comments reports prepared by independent outside experts which demonstrate how the Agency's technical assessments and determinations are deficient and would have led the Agency to differing conclusions if properly performed.

⁴ As a leader in the field of coating removal products that are sold at retail for consumer use and use by small business residential remodeler contractors, Barr has focused its comments on those features of EPA's proposed rule (and its supporting documents) that are most pertinent to retail coating removal products and the countless consumers and retail purchasers who rely on and trust the Barr brands. To that end, Barr fully supports comments submitted by the Halogenated Solvents Industry Alliance, Inc. ("HSIA"), the American Coatings Association ("ACA"), the Consumer Specialty Products Association ("CSPA"), and the American Chemistry Council ("ACC"), which each represent various stakeholders in the paint removal community. Accordingly, and as a courtesy to Agency reviewers, Barr has made efforts not to unnecessarily duplicate these commenters' arguments here.

W.M. Barr & Company, Inc.

6750 Lenox Center Court, Suite 200, Memphis, TN 38115
www.wmbarr.com



*Certain exhibits contain TSCA Confidential Business Information;
Barr is submitting a redacted and a complete set of its exhibits to the Agency*

specific colors, characters, and appropriate font sizes. Enhanced by outreach to key stakeholder and user groups, such a standard would effectively reduce consumer and residential users' risks to reasonable levels while effectively addressing the concerns expressed by EPA regarding such exposures and label comprehension difficulties. Moreover, such an approach would be consistent with the CPSC efforts with respect to labeling required under the Federal Hazardous Substances Act, fulfill EPA commitments under the amended Section 9 of TSCA to work cooperatively with other pertinent regulatory agencies, and provide a practical and rational alternative regulatory approach that comports with the amended TSCA Section 6(a) and 6(c) standards of reducing risks using mitigation strategies that are cost-effective.

As a responsible small business manufacturer dedicated to producing safe, effective paint removal products that comply with U.S. and international law, Barr looks forward to working with EPA to ensure this alternative regulatory path is successful. We look forward to the opportunity to collaborate.

Sincerely,

A handwritten signature in black ink, appearing to read "Rebecca Drzal", written over a horizontal line.

Rebecca Drzal
Senior Corporate Counsel, W.M. Barr & Company

cc: Cindy Wheeler; Niva Kramek; Ana Corado, Chemical Control Division, OPPT, EPA
Lawrence Cullen; Greg Louer; Jeremy Karpatkin, Arnold & Porter Kaye Scholer LLP
Dennis Shireman; Scott Beal, W.M. Barr & Company

Enclosures: W.M. Barr's Comments for Docket Number: EPA-HQ-OPPT-2016-0231
Exhibits 1-13 to W.M. Barr's Comments

Because certain exhibits contain TSCA Confidential Business Information, Barr is submitting a full set of its comments with a CBI-redacted (non-CBI) set of exhibits to the electronic docket and a complete (with all CBI-included) set of both our comments and exhibits to EPA in a hard copy via express service delivery. Specifically, the following exhibits have been redacted in part for purposes of the public docket: Exhibit 2, Exhibit 3, Exhibit 6, Exhibit 11, Exhibit 13.

The following exhibit will be submitted to EPA in hard copy due to copyright restrictions that prevent the publication of the document online: Exhibit 10.

W.M. Barr & Company, Inc.
6750 Lenox Center Court, Suite 200, Memphis, TN 38115
www.wmbarr.com